

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LATIN AMERICANS FOR SOCIAL AND
ECONOMIC DEVELOPMENT, CITIZENS
WITH CHALLENGES, DETROIT ASSOCIATION
OF BLACK ORGANIZATIONS, DETROITERS
FOR PROGRESS, MANA DE METRO DETROIT,
MEXICAN PATRIOTIC COMMITTEE OF METRO
DETROIT, DETROIT INTERNATIONAL BRIDGE
COMPANY,

Plaintiffs,

-vs-

Case No. 10-10082
Hon: AVERN COHN

The ADMINISTRATOR of the Federal Highway
Administration, in his official capacity, THE FEDERAL
HIGHWAY ADMINISTRATION, JAMES J. STEELE,
in his official capacity as the Michigan Division
Administrator of the Federal Highway Administration,
an individual,

Defendants.

_____ /

ORDER REGARDING PLAINTIFFS' RENEWED MOTION FOR DISCOVERY

This is a challenge to the Federal Highway Administration's (FHWA) January 14, 2009 Record of Decision (ROD) approving an international border crossing between Detroit, Michigan and Windsor, Ontario, Canada consisting of a border inspection plaza, highway interchange, and bridge. Plaintiffs assert that the ROD violates the National Environmental Protection Act, Department of Transportation Act, and National Historic Preservation Act. Plaintiff filed a Motion for Leave to Take Discovery and for Preliminary Injunction (Doc. 16). By order filed August 18, 2010, the Court stayed decision on plaintiffs motion and directed the FHWA to file the following:

- (1) A description of the process by which the Administrative Record (AR) was compiled, including (a) the search terms for any electronic search, (b) any date restrictions for electronic or physical searches, and (c) any categorical content exclusions.
- (2) An index of the AR organized as to the principle categories set forth in the Table of Contents of the ROD. These categories are identified with an asterisk (*) in Exhibit 1.
- (3) A separate index for each DVD comprising the AR. The FHWA must provide a hard copy of the indices as well as a searchable electronic index that identifies the DVD on which each document is found.

(Doc. 30).

On October 15, 2010, the FHWA filed a document, untitled, which is docketed as “NOTICE by All Defendants Concerning Description of the Process by Which the Administrative Record was Compiled.” (Doc. 32). Plaintiffs responded to this document on November, 24, 2010 by filing a renewed motion for leave to take discovery and renewed motion for a preliminary injunction. (Doc. 36). Although counsel for FHWA indicated it intends to respond to plaintiff’s motion within the time provided under the rules, the FHWA shall file a response no later than Monday, January 3, 2011. Plaintiffs may file a reply no later than Monday, January 10, 2011.

In order to more focus the discovery dispute, plaintiffs shall within 10 days file a paper detailing, in alpha numeric format, precisely what documents or categories of documents they say are missing and/or should be included in the AR.

Finally, the Court has determined that this discovery matter be referred to a magistrate judge. The order of reference has been made by separate order. (Doc. 40).

SO ORDERED.

Dated: December 3, 2010

s/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

10-10082 LASED, et al v. FHWA, et al
ORDER REGARDING PLAINTIFFS' RENEWED MOTION FOR DISCOVERY

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was mailed to the attorneys of record on this date, December 3, 2010, by electronic and/or ordinary mail.

s/Julie Owens
Case Manager, (313) 234-5160